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March 13, 1998

VIA HAND DELIVERY

Mr. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

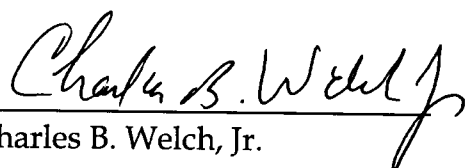
RE: Application of Electric Power Board of Chattanooga  
for a Certificate of Public Convenience and Necessity  
to Provide Intrastate Telecommunications Services  
TRA Docket No. 97-07488

Dear Mr. Waddell:

Please find enclosed the original and thirteen copies of the Rebuttal Testimony of William J. Barta on behalf of the Tennessee Cable Telecommunications Association for filing in the above referenced matter. Copies are being served on parties of record.

If you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Very truly yours,

By:   
Charles B. Welch, Jr.

CBWjr:cg  
cc: Parties of Record  
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**BEFORE THE  
TENNESSEE REGULATORY AUTHORITY**

**Re: Application of the Electric Power Board of     )  
Chattanooga for a Certificate of Public     ) Docket No. 97-07488  
Convenience and Necessity to Provide Intrastate     )  
Telecommunications Services     )**

**REBUTTAL TESTIMONY**

**AND EXHIBIT**

**OF**

**WILLIAM J. BARTA**

**ON BEHALF OF THE**

**TENNESSEE CABLE TELECOMMUNICATIONS ASSOCIATION**

**HENDERSON RIDGE CONSULTING, INC.  
ATLANTA, GEORGIA  
MARCH 13, 1998**

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**BEFORE THE  
TENNESSEE REGULATORY AUTHORITY  
DOCKET NO. 97-07488**

**I. QUALIFICATIONS**

**Q. Please state your name and business address.**

**A.** My name is William Barta, and my business address is 2744 Evans Dale Circle, Atlanta, Georgia 30340.

**Q. What is your occupation?**

**A.** I am the founder of Henderson Ridge Consulting, Inc., a regulatory consulting firm. The firm's practice focuses on the technical and policy issues confronting the telecommunications and electric utility industries.

**Q. Please provide a summary of your education and professional experience.**

**A.** From 1975 through 1978, I attended The Lindenwood Colleges where I received a Bachelor of Arts degree, cum laude, with a study emphasis in accounting. Upon graduation, I held accounting staff positions with a privately-held corporation and with a division of a large, public corporation. The primary responsibilities of these positions were to perform financial ratio analysis, cost accounting functions, and to supervise the monthly book close and preparation of the financial statements. In 1980, I enrolled in the graduate business program at Emory University and received my Masters of Business Administration with concentrations in finance and marketing.

1 After graduating from Emory University in 1982, I joined the Bell System as an  
2 Account Executive where I was responsible for the sale/lease of regulated  
3 products and services to large business customers. In late 1983, I transferred to  
4 AT&T Communications where I provided a broad range of accounting regulatory  
5 support functions to the nine state Southern Region.

6  
7 From 1986 through 1988, I held various positions in the regulatory departments  
8 of Contel Corporation, an independent local exchange carrier. My  
9 responsibilities ranged from tariff support to ratemaking and rate design issues to  
10 line of business feasibility studies.

11  
12 In April 1988, I joined the firm of J. Kennedy and Associates, Inc., a regulatory  
13 and economic consulting firm. As a Manager at Kennedy and Associates, I  
14 directed or supported the ratemaking investigations of major telecommunications  
15 and electric utilities. My work covered rate design, revenue requirements  
16 analysis, and the determination of the appropriate cost of capital and other issues  
17 associated with traditional rate base/rate of return regulation.

18  
19 I have conducted management and compliance audits of regulated  
20 telecommunications and electric utilities. I have examined utilities' filings  
21 regarding other matters such as merger proposals, alternative regulation requests,  
22 affiliate relationships, network modernization proposals, and emerging  
23 competition.

24  
25 **Q. Do you hold any professional certifications?**

26  
27 **A** Yes. I am a Certified Fraud Examiner and a Certified Public Accountant with an  
28 active license to practice in the State of Georgia.

1  
2 **Q. Please provide a brief overview of your experience that is germane to this**  
3 **proceeding.**  
4

5 A. The issue of greatest concern that the TRA will be requested to address in this  
6 proceeding is to identify and minimize the opportunities that the Electric Power  
7 Board of Chattanooga ("EPB") will have to engage in anti-competitive practices  
8 that inappropriately cross subsidize its telecommunications operations through  
9 the regulated services of the electric division.  
10

11 I have been involved and/or testified in numerous regulatory proceedings that  
12 have been initiated to examine the affiliate transaction policies and cost  
13 allocation procedures of regulated utilities. On more than one occasion, I have  
14 participated in the examination of BellSouth's affiliate transaction policies and  
15 procedures. I have conducted a series of compliance audits and affiliate  
16 transaction studies of independent local exchange carriers on behalf of the  
17 Georgia and Louisiana Public Service Commissions.  
18

19 I have reviewed the affiliate transactions of major investor owned electric  
20 utilities including an engagement that involved the very issues being considered  
21 in the instant proceeding  
22

23 Additional detail with respect to my qualifications can be found in  
24 Exhibit\_\_(WJB-1).  
25

26 **Q. On whose behalf are you testifying in this proceeding?**  
27

28 A. I am testifying on behalf of the Tennessee Cable Telecommunications  
29 Association ("TCTA")

1  
2  
3 **Q. What is the purpose of your testimony?**  
4

5 A. I have been requested by the TCTA to address the concerns raised by the request  
6 of the Electric Power Board of Chattanooga for a Certificate of Public  
7 Convenience and Necessity to Provide Intrastate Telecommunications Services  
8

9 **Q. Please summarize your testimony.**  
10

11 A. The Electric Power Board of Chattanooga ("EPB") has requested that the TRA  
12 authorize the excess fiber optic capacity arising from its regulated electric  
13 operations be used for the provision of intrastate telecommunications service  
14 offerings. According to the Application filed with the TRA, these new services  
15 will be provided through a telecommunications division within the EPB. The  
16 proposed structure raises affiliate transaction concerns that can result in  
17 inappropriate and anti-competitive cross-subsidies.  
18

19 Although the pro-competitive policies of the TRA encourage market entry by new  
20 participants, such entry should be founded upon the principles of economic  
21 efficiency and competitive fairness. Unless the TRA adopts appropriate  
22 accounting safeguards and other regulatory controls, the EPB may be in a position  
23 to cross-subsidize its telecommunications division through its regulated electric  
24 operations. The opportunities for cross-subsidy may take the form of  
25 inappropriate cost allocation procedures, pole and conduit sharing agreements that  
26 do not reflect arms-length transactions, and/or the joint marketing of regulated  
27 electric services with competitive telecommunications services.  
28

29 In order to mitigate the threat of anti-competitive cross-subsidy, the TRA should  
30 adopt transfer pricing rules that are consistent with the Federal Communications

Commission's rules and regulations, ensure that any agreement reached between the electric and the telecommunications division of the EPB for pole and conduit sharing reflects arms-length negotiations, and that the bundling of electric and telecommunications services covers the direct costs of each service as well as makes a proportionate contribution to the EPB's total joint and common costs.

**Q. Why has this proceeding been initiated by the Tennessee Regulatory Authority?**

A. This proceeding has been initiated as a result of the Electric Power Board's Application filed on October 21, 1997 to provide intrastate telecommunications services. On page 3 of its petition, EPB states that it "has constructed a fiber optics network for its own electric system uses in and around downtown Chattanooga, Tennessee, which network has excess capacity that is usable for telecommunications services."

**Q. Will the EPB establish a separate subsidiary to provide telecommunications services?**

A. No. Apparently, EPB merely plans to establish a telecommunications division, not a separate subsidiary, to run its telecommunications questions. According to the EPB's witness, Mr. Harold E. DePriest, "[f]ollowing certification, the Electric Power Board will create a separate telecommunications division of the Electric Power Board to conduct the Electric Power Board's regulated telecommunications operations" (Direct Testimony of Harold E. DePriest, page 4, lines 3 through 6).

**Q. What concerns are raised as a result of the EPB's decision to enter the telecommunications market through the use of its electric system facilities?**

1 A. Despite the lack of structural separation between the existing electric operations  
2 and the planned telecommunications division, the issue of affiliate transactions  
3 between the EPB divisions is an immediate regulatory concern.  
4

5 **Q. Why are the transactions between a regulated utility and its affiliates a cause**  
6 **of concern for regulators?**  
7

8 A. Transactions between regulated utilities and their affiliates and/or divisions have  
9 always been subject to regulatory scrutiny. Federal and state regulators have  
10 recognized that strong incentives exist to manipulate the transfer price for assets  
11 and services. In the course of providing joint services, there are many  
12 opportunities where corporate self-dealing can inflate the costs incurred by the  
13 regulated entity while inappropriately lowering the cost structure of the  
14 nonregulated affiliate. Competitors and regulators alike understand that the  
15 regulated utility simply does not have the incentive to minimize its costs.  
16 Therefore, safeguards have been established to prevent the regulated utility from  
17 absorbing capital costs, management, and the costs of other services that should  
18 be borne, in part, by other affiliates.  
19

20 **Q. Does the proposed arrangement between the electric and telecommunications**  
21 **divisions of the EPB lend itself to engaging in anti-competitive practices?**  
22

23 A. Yes. Although the EPB's Application, responses to data requests, and the prefiled  
24 direct testimony of its witnesses do not suggest the two divisions will engage in  
25 any anti-competitive practices, the fact remains that there are no formal  
26 safeguards to prevent potential abuses. The Tennessee Regulatory Authority  
27 should keep in mind that under the proposed divisional structure there are  
28 opportunities for the EPB to inappropriately cross-subsidize its  
29 telecommunications services through its regulated electric operations. These  
30 opportunities include inappropriate cost allocation measures, structure sharing



1 agreements that do not reflect arms-length negotiations, and the anti-competitive  
2 joint marketing of electric and telecommunications services.

3  
4 **Q. Please provide an example of how the cost allocation procedures can benefit**  
5 **the EPB's telecommunications operations to the detriment of its captive**  
6 **electric ratepayers.**

7  
8 A. The EPB could claim that the deployment of fiber optic facilities is primarily  
9 attributed for load management purposes and allocate the related capital costs and  
10 recurring expenses to the electric division. However, the excess capacity of the  
11 facilities that will be available for the provision of telecommunications services  
12 should be allocated, to some extent, to the telecommunications division. It is not  
13 clear from the EPB's Application and prefiled direct testimony what cost  
14 allocation standards will be applied to apportion investment between the regulated  
15 electric operations and the telecommunications division of the EPB. If a relative  
16 usage allocator is adopted, it is likely that only a small percentage of the  
17 investment in the fiber facilities will be allocated to the telecommunications  
18 division.

19  
20 The same concern exists regarding the allocation of the EPB's joint and common  
21 costs. For instance, the costs of senior management frequently cannot be  
22 attributed to the operations of a single division or affiliate. In such cases, it is  
23 important to allocate these expenses based upon a standard that equitably  
24 apportions the costs among the divisions and/or affiliates.

25  
26 **Q. What measures can the TRA adopt to promote fair and reasonable cost**  
27 **allocation standards and procedures?**  
28

1 A. The Company has indicated in its prefiled direct testimony that it intends to adopt  
2 the Federal Communications Commission's Chart of Accounts as the basis for its  
3 telecommunications accounting system.

4  
5 **"We have developed a preliminary chart of accounts for the**  
6 **telecommunications accounting. A copy is attached as Exhibit**  
7 **RMB-1 to this Testimony. This chart of accounts uses the**  
8 **Federal Communications Commission's account numbers**  
9 **defined in the Uniform System of Accounts for**  
10 **Telecommunications Companies which is found in Title 47,**  
11 **Part 32 of the Code of Federal Regulations"** (Direct Testimony  
12 of Rose M. Baxter, page 2, lines 10 through 16).  
13

14 The TRA should not only require that the EPB use the FCC's Part 32 Uniform  
15 System Of Accounts but all rules and regulations that regulated  
16 telecommunications common carriers are subject to under Part 32 of the Code of  
17 Federal Regulations.

18  
19 **Q. Does Part 32 of the FCC's rules and regulations specifically address affiliate**  
20 **transactions?**

21  
22 A. Yes. Over the years, the Federal Communications Commission has refined its  
23 rules and regulations regarding affiliate transactions Part 32.27 of the FCC's  
24 rules and regulations specifically addresses the transactions between a regulated  
25 utility and its affiliates.

26  
27 **"32.27 Transactions with affiliates.**

28  
29 **(b) Charges for assets purchased by or transferred to the regulated**  
30 **telephone activity of a carrier from affiliates shall be recorded in the**  
31 **operating accounts of the regulated activity at the invoice price if that price**  
32 **is determined by a prevailing price held out to the general public in the**  
33 **normal course of business. If a prevailing price for the assets received by**  
34 **the regulated activity is not available, the charges recorded by the regulated**  
35 **activity for such assets shall be the lower of their cost to the originating**

1 activity and the affiliated group less all applicable valuation reserves, or  
2 their fair market value.

3  
4 (c) Assets sold or transferred from the regulated accounts to affiliates  
5 shall be recorded as operating revenues, incidental revenues on asset  
6 retirements according to the nature of the transaction involved. If such  
7 sales are reflected in tariffs on file with a regulatory commission or in a  
8 prevailing price held out to the general public, the associated revenues shall  
9 be recorded at the prices contained therein in the appropriate revenue  
10 accounts. If no tariff or prevailing price is applicable, the proceeds from  
11 such sales shall be determined at the higher of costs less all applicable  
12 valuation reserves, or estimated fair market value of the asset.

13  
14 (d) Services provided to an affiliate pursuant to a tariff, including a  
15 tariff filed with a state commission, shall be recorded in the appropriate  
16 revenue accounts at the tariffed rate. Services provided by an affiliate to the  
17 regulated activity when the same services are also provided by the affiliate  
18 to unaffiliated persons or entities, shall be recorded at the market rate.  
19 When a carrier provides substantially all of a service to or receives  
20 substantially all of a service from an affiliate which are not also provided to  
21 unaffiliated persons or entities, the services shall be recorded at cost which  
22 shall be determined in a manner that complies with the standards and  
23 procedures of the apportionment of joint and common costs between the  
24 regulated and nonregulated operations of the carrier entity" (FCC Rules &  
25 Regulations, Part 32.27).

26  
27  
28 Although the TRA may wish to modify the affiliate transaction standards  
29 prescribed by the FCC in Part 32.27, the rules should form the basis for the cost  
30 allocation procedures adopted by the EPB.

31  
32 **Q. In what way can the TRA ensure that the structure sharing agreements**  
33 **entered into between the electric and telecommunications divisions of the**  
34 **EPB reflect arms-length negotiations?**

35  
36 **A.** The Tennessee Regulatory Authority can ensure that arms-length agreements for  
37 pole and conduit sharing are negotiated between the electric and  
38 telecommunications divisions of the EPB by requiring that the contract or  
39 arrangement in effect between the divisions be filed with the Authority.

1 Interested parties will then have the opportunity to review the provisions of the  
2 agreement and determine if like terms are offered to their companies by the  
3 electric division of the EPB.  
4

5 **Q. What guidelines should the TRA follow regarding the joint marketing of**  
6 **electric and telecommunications services by the EPB?**  
7

8 A. The bundling of monopoly electric services with competitive  
9 telecommunications services poses difficult regulatory challenges for the TRA.  
10 These challenges are compounded by the fact that the EPB is a government-  
11 owned entity seeking to compete with privately-owned companies, thereby  
12 exacerbating the potential for anti-competitive behaviors. The Authority should  
13 encourage the efficient entry of alternative telecommunications providers  
14 through its policies and regulations. But a firm whose market presence is  
15 dependent upon cross-subsidies from an affiliate's regulated monopoly services  
16 is not an effective or economically viable competitor.  
17

18 The Tennessee Regulatory Authority should require that the EPB provide certain  
19 cost support in the event it jointly markets its electric and telecommunications  
20 services. The cost information submitted to the TRA in support of the tariff filing  
21 should document that the direct costs incurred to provide each service offering are  
22 being recovered as well as a proportionate share of the EPB's joint and common  
23 costs.  
24

25 **Q. Does this conclude your testimony?**  
26

27 A. Yes.  
28  
29

**BEFORE THE  
TENNESSEE REGULATORY AUTHORITY**

<b>Re: Application of the Electric Power Board of</b>	<b>)</b>	
<b>Chattanooga for a Certificate of Public</b>	<b>)</b>	<b>Docket No. 97-07488</b>
<b>Convenience and Necessity to Provide Intrastate</b>	<b>)</b>	
<b>Telecommunications Services</b>	<b>)</b>	

**EXHIBIT**

**OF**

**WILLIAM J. BARTA**

**ON BEHALF OF THE  
TENNESSEE CABLE TELECOMMUNICATIONS ASSOCIATION  
HENDERSON RIDGE CONSULTING, INC.  
ATLANTA, GEORGIA  
MARCH 13, 1998**

**WILLIAM J. BARTA**  
**President, Henderson Ridge Consulting, Inc.**

**EDUCATION**

<b>Emory University</b>	M B.A. (1982)
Marketing and Finance	
<b>The Lindenwood Colleges</b>	B A. with Honors (1978)
Business Administration and Accounting	

**PROFESSIONAL CERTIFICATION**

Certified Public Accountant  
Certified Fraud Examiner

**PROFESSIONAL AFFILIATIONS**

American Institute of Certified Public Accountants  
Georgia Society of Certified Public Accountants  
Association of Certified Fraud Examiners

**EMPLOYMENT HISTORY**

1988 - 1995:	J Kennedy and Associates	Manager
1986 - 1988:	Contel Corporation	Financial Planning Coordinator
1982 - 1986:	AT&T	Financial Analyst and Account Executive
1981	Simmons, U.S.A.	Special Projects Staff (summer internship)
1979 - 1980:	Gould, Inc.	Senior Accountant
1978 - 1979:	SCNO Barge Lines, Inc.	Staff Accountant

**REPRESENTATIVE EXPERIENCE**

**Management Audits:**

Conducted comprehensive and focused management audits of a major electric investor owned utility, a generation and transmission electric cooperative, distribution electric cooperatives, a Bell Operating Company, and independent local exchange carriers.

**Alternative Regulation Assessments:**

Assessed the ratemaking and competitive impact of the incentive regulation proposals advanced by an electric investor owned utility, AT&T, and a Bell Operating Company and assisted in the

development of a state public commission staff's response to the state legislature's proposed local exchange competition plan.

Exhibit No. \_\_\_\_ (WJB-1)

Page 2 of 5

**Merger Evaluations:**

Evaluated the administrative and operational synergies projected in a merger between two electric investor owned utilities and the level of savings and operational efficiency to be achieved from the combination of separate subsidiaries within a Bell Regional Holding Company.

**Demand Side Management Program Analyses:**

Performed a comprehensive review of the assumptions used in the development of proposed Demand Side Management ("DSM") programs and the benefit/cost ratios of implementing proposed DSM programs as determined by standard regulatory tests. Of particular interest was the nonregulated revenue potential resulting from a load management program designed to achieve spinning reserve status by providing real time communications between the residential customer and the operating dispatch center.

**Affiliate Transactions Reviews:**

Conducted extensive cost allocation studies and transaction audits of a Bell Regional Holding Company's on-going affiliate transactions, the sale of an electric utility's generating facilities to (and subsequent participation in) a joint venture between the utility and three of its largest industrial customers, the integrated sale of an electric utility's mining operation and long-term coal purchase agreement, and the provisions under which a nonregulated subsidiary of an electric utility would market the excess telecommunications capacity of a Demand Side Management program.

**Accounting and Finance Investigations:**

Performed comprehensive earnings investigations and revenue requirements studies of AT&T, a Bell Operating Company, independent local exchange carriers, electric investor owned utilities, a generation and transmission electric cooperative, and electric distribution cooperatives.

**PROJECT PARTICIPATION AND RESULTS**

In the engagements discussed, I participated as an Assistant Project Manager and/or a Project Director and Task Leader. Most of the engagements required appearances as an expert witness in order to support the project's findings, conclusions, and recommendations.

### Expert Testimony Appearances

<u>Date</u>	<u>Case No</u>	<u>Jurisdiction</u>	<u>Company</u>	<u>Subject Matter</u>
July 1989	333-272	Louisiana	South Central Bell Telephone & Telegraph	Realized and projected rates of return.
August 1989	U-17970	Louisiana	AT&T Communications	Earnings investigation, network modernization, and alternative regulation
October 1989	U-17282	Louisiana	Gulf States Utilities	Operating expense analysis and nonregulated joint venture evaluation.
January 1990	U-17282	Louisiana	Gulf State Utilities	Regulatory treatment of gain on sale of utility property.
July 1991	4004-U	Georgia	GTE Telephone	Network modernization and depreciation represcription.
October 1991	U-17282	Louisiana	Gulf States Utilities	Results of comprehensive management audit.
Dec. 1992	U-17949 Subdocket A	Louisiana	South Central Bell Telephone and Telegraph	Network technology and modernization and construction program evaluation.
Dec. 1992	U-19904	Louisiana	Entergy/Gulf States	Non-fuel O&M merger related synergies.
March 1993	93-01-E1 EFC	Ohio	Ohio Power Company	Accounting and regulatory treatment of the sale of an affiliate's



**Expert Testimony Appearances - continued**

<u>Date</u>	<u>Case No</u>	<u>Jurisdiction</u>	<u>Company</u>	<u>Subject Matter</u>
March 1993	U-19994	Louisiana	Entergy/Gulf States	Merger related synergies.
August 1993	U-19972	Louisiana	Ringgold Telephone Company	Earnings investigation, network modernization, and construction program
October 1993	U-17735	Louisiana	Cajun Electric Power	Earnings investigation.
May 1994	U-20178	Louisiana	Louisiana Power & Light Company	Analysis of Least Cost Integrated Resource Plan and Demand Side Management programs.
October 1994 review.	5258-U	Georgia	Southern Bell Telephone & Telegraph	Price regulation and incentive rate plan
June 1995	3905-U	Georgia	Southern Bell Telephone & Telegraph	Rate design and alternative regulation.
June 1996	96-02-002	California	Pacific Bell Telephone & Telegraph	ISDN TSLRIC study evaluation
August 1996	U-22020 (Direct)	Louisiana	BellSouth Telecomm. Inc.	Avoided retail cost study
Sep 1996	U-22020 (Rebuttal)	Louisiana	BellSouth Telecomm. Inc.	Avoided retail cost study
Oct. 1997	97-01262	Tennessee	BellSouth Telecomm. Inc.	Permanent pricing for local interconnection and UNEs
Oct. 1997	97-01262	Tennessee	BellSouth Telecomm. Inc.	Permanent pricing for

(Rebuttal)

local interconnection  
and UNEs

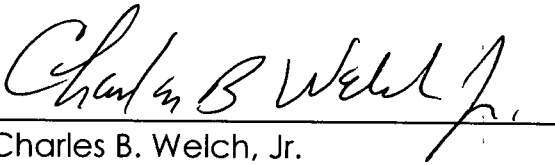
Exhibit No. \_\_\_\_ (WJB-1)  
Page 5 of 5

**Expert Testimony Appearances - continued**

Nov. 1997	97-00888	Tennessee	Universal service policy issues
Dec. 1997	P-100, Sub 133b	North Carolina	Universal service FLEC models
Dec. 1997	P-100, Sub 133d	North Carolina	Permanent pricing for local interconnection and UNEs
Jan. 1998	P-100, Sub 133b (Rebuttal)	North Carolina	Universal service FLEC models
Mar. 1998	P-100, Sub 133d (Rebuttal)	North Carolina	Permanent pricing for local interconnection and UNEs
Mar. 1998	P-100, Sub 133g	North Carolina	Universal service policy issues
Mar. 1998	97-00088 (Phase II)	Tennessee	Universal service FLEC models

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing Rebuttal Testimony of William J. Barta on behalf of the Tennessee Cable Telecommunications Association, on all parties of record by placing a copy of same in the United States Mail, properly addressed and postage prepaid on this the 13th day of March, 1998.

  
Charles B. Welch, Jr.

Docket No. 97-07488 - Service List

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# TENNESSEE REGULATORY AUTHORITY

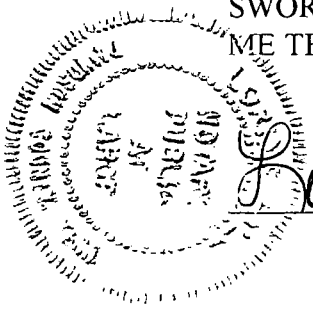
STATE OF TENNESSEE

BEFORE ME, the undersigned authority, duly commissioned and qualified in and for the State of Tennessee, personally came and appeared William J Barta, who being by me first duly sworn depose and said that

He is appearing as a witness on behalf of the Tennessee Cable Telecommunications Association in Docket No 97-07488, and if present before the Tennessee Regulatory Authority, and duly sworn, his testimony would be set forth in the annexed testimony consisting of 10 pages and 1 exhibit

William Barta

SWORN TO AND SUBSCRIBED BEFORE  
ME THIS 13<sup>th</sup> DAY OF March, 1998



L. D. Hill  
NOTARY PUBLIC

My Commission Expires NOV. 24, 2001